DON'T KNOW MUCH ABOUT® HISTORY

EVERYTHING YOU NEED TO KNOW ABOUT AMERICAN HISTORY BUT NEVER LEARNED

KENNETH C. DAVIS

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nas, and the Paxton Boys of Pennsylvania (see Chapter 2, p. 51), this "little rebellion," as Thomas Jefferson would call it, was a sign of serious class conflict, a symptom of the economic tension that had always existed in America between, on one side, the working-class frontier farmers, inner-city laborers, the servant class, smaller merchants, and free blacks, and on the other side the "haves," the landed, slaveholding gentry, and the international merchants of the larger cities.

Massachusetts passed a state constitution in 1780 that found few friends among the poor and middle class, many of them veterans of the Continental Army still waiting for promised bonuses. When they learned that they were now barred from voting and holding office, they must have wondered what they had been fighting for. As the economy worsened, many farms were seized to pay off debts. When the local sheriffs looked to the militia to defend the debt courts against angry crowds, the militia sided with the farmers.

In the summer of 1786, an army veteran named Daniel Shays emerged on the scene. With 700 farmers and working-class people, Shays marched on Springfield and paraded around town. Onetime radical Sam Adams, now part of the Boston establishment, drew up a Riot Act, allowing the authorities to jail anyone without a trial. Revolt against a monarch was one thing, said Adams, but against a republic it is a crime punishable by death.

Shays soon had a thousand men under arms and was marching on Boston, the seat of wealth and power. Then General Benjamin Lincoln, one of Washington's war commanders, brought out an army paid for by Boston's merchants. There was an exchange of artillery fire, leaving some casualties on both sides, and Shays's army scattered. Lincoln's army pursued the rebels, but refrained from attacking when the rout was assured. A harsh winter took its toll, and Shay's amateur army disintegrated. Some of the rebels were caught, tried, and hanged. Others were pardoned. Shays, on the run in Vermont, was pardoned, but died in poverty in 1788.

Writing from the safe distance of Paris, Thomas Jefferson said of the uprising, "A little rebellion now and then is a good thing. . . . God forbid that we should ever be twenty years without such a rebellion. . . . The tree of liberty must be refreshed from time to time with the blood of patriots and tyrants."

Lacking cohesion and stronger leadership, the Shaysites disintegrated. However, several of the reforms they had demanded were made, including the end of the state's direct taxation, reduced court costs, and the exemption of workmen's tools and household necessities from the debt process.

Start Here

AMERICAN VOICES

GEORGE MASON, delegate from Virginia, writing on the eve of the Constitutional Convention in May 1787:

> **I have reason to hope there will be greater unanimity and less opposition, except for the little States, than was at first apprehended. The most prevalent idea in the principal States seems to be a total alteration of the present federal system, and substituting a great national council or parliament, consisting of two branches of the legislature, founded upon the principles of equal proportionate representation, with full legislative powers upon all subjects of the Union; and an executive: and to make the latter a power of a negative upon all such laws as they shall judge contrary to the interest of the federal Union. It is easy to foresee that there will be much difficulty in organizing a government upon this great scale, and at the same time reserving to the State legislatures a sufficient portion of power for promoting and securing the prosperity and happiness of their respective citizens; yet with the proper degree of coolness, liberality and candor (very rare commodities by the by), I doubt not but it may be effected.**

A Virginia statesman who wrote the first American bill of rights—the Virginia Declaration of Rights of 1776—George Mason (1725–92) is not usually mentioned in the same breath with the more familiar Founding Fathers. Though he held few public offices, he was one of the most significant and influential men of the day.

Before the Revolution, his most important contribution was the Virginia Declaration of Rights, from which Jefferson borrowed to craft the Declaration of Independence. Mason played an active role in creating

the Constitution, but disagreed with parts of it and refused to sign the final draft of the United States Constitution.

Chief among his complaints was the lack of a bill of rights to protect personal liberties. Another of those slaveholding delegates who were uncomfortable with slavery, Mason also found fault with some of the compromises that would be made over slavery. Dissatisfied when these concerns were not addressed, he was one of the few delegates who refused to sign the Constitution. When the Constitution was submitted to the states for ratification, he opposed it, and made the absence of a bill of rights his main objection.

What was the Constitutional Convention?

While the Massachusetts uprising was a relatively minor affair that did not spread armed insurrection throughout the states, it sufficiently shook up America's new ruling class. Something stronger than the Articles of Confederation was needed; the states had little ability to control local rebellion, let alone a foreign attack—a genuine threat as Spain and England both maintained troops in America. Equally pressing was the substantial danger posed by Indians on the western frontier who outnumbered the state militias. Nor could the states adequately handle the other two related crises facing America: the disruption of overseas trade and the postwar financial and currency collapse.

On May 25, 1787, after a delay of ten days because too few delegates had arrived, the convention to draw up a new plan of government gathered in Philadelphia. Every state but Rhode Island sent delegates, and George Washington was unanimously selected to preside over the convention. In the course of the next four months, they would create the Constitution. (While Washington presided at the convention and is recognized as the first president, there were actually several earlier presidents. Under the Articles of Confederation, John Hanson of Maryland had been elected "President of the United States in Congress Assembled.")

At various times during the four months, fifty-five delegates were present at what is now called Independence Hall in Philadelphia, but rarely were they all there at the same time. Forty-five of them had served

in Congress; thirty had served in the war. To delegates like Patrick Henry, it consisted of "the greatest, the best, and most enlightened of our citizens." John Adams was not there. Nor was Thomas Jefferson, who from Paris called the convention "an assembly of demigods." In his book *The Vineyard of Liberty*, James McGregor Burns neatly encapsulated this group as "the well-bred, the well-fed, the well-read, and the well-wed," and it applied to most of them, America's new aristocracy. They included the likes of Pennsylvania's Robert Morris, one of America's wealthiest men, who had funded the Revolution. To other modern historians, they represented not the broad masses, but the wealthy merchants of the North and the wealthy, slaveholding plantation owners of the South.

Of them, the oldest was also perhaps the most famous, eighty-one-year-old Benjamin Franklin; Jonathan Dayton of New Jersey was youngest at twenty-seven. Their median age was forty-three. A little more than half (thirty-one) were college-educated, the same number as were lawyers. Seventeen of the delegates who were present to "establish justice . . . and secure the blessings of liberty to ourselves and our posterity" (in the words of the preamble) owned several thousand black slaves; John Rutledge (South Carolina), George Mason (Virginia), and George Washington (Virginia) were among the largest slaveholders in the country.

After two hundred years of rule under the Constitution, we have come to think of it as a perfect ideological and idealistic document created by a gathering of legislative geniuses. It has often been said that no new nation before or since has enjoyed a more politically experienced group than the men who wrote the Constitution. It might be useful to think of them as a collection of, in a modern phrase, special interest groups and regionally minded legislators, almost all of them admittedly brilliant politicians. And in politics, then as now, the art of compromise is the secret of success.

The Constitution was no different; it was a political creation, hammered together in a series of artfully negotiated compromises, balancing political idealism with political expediency. There were conflicts everywhere: between small states and large states, North and South, slave states and abolitionist states.

While there was near unanimity that a federal government was nec-

essary, there was less agreement about the structure of such a government. The first broad scheme for the Constitution came from the Virginians, young James Madison chief among them, and came to be known as the Virginia Plan. Its key points were a bicameral (two-chamber) legislature, an executive chosen by the legislature, and a judiciary also named by the legislature. An alternative, known as the New Jersey Plan, was favored by smaller states. Through the heat of summer, debate dragged on, the convention facing a deadlock essentially over two key questions.

The first was representation. Should representation in Congress be based on population, with larger states getting proportionately more votes, or should each state receive equal representation?

The second question was that of slavery. The southern states wanted to have their cake and eat it too. Faced with growing abolitionist sentiments, the southern delegates would not bend on questions affecting slavery, nor would they grant freed blacks the vote. On the other hand, they wanted slaves counted for the purpose of determining representation in Congress. In other words, it was "Now you see 'em, now you don't."

With an impasse near, Roger Sherman proposed what is called the Connecticut Compromise, or Great Compromise. Seen in retrospect, it seems an obvious solution to the representation issue, providing for equal representation in the upper house of Congress (the Senate) and proportional representation in the lower house (the House of Representatives).

Two more compromises "solved" the issue of slavery and slaves, words that appear nowhere in the Constitution. Instead, flowery euphemisms like "no person held in service," and "all other persons" were coined in accordance with the Constitution's flowing legal prose. Under these bargains, Congress was prohibited from taking any action to control slavery for a period of twenty years (until 1808), although the gentlemen did agree that the slave trade could be taxed. (Apparently the antislave forces thought, "We may not like it, but at least let's make some money out of it.") And for the purposes of determining representation, slaves ("all other persons") would be counted as three-fifths of their total population. In hindsight, it was a small step forward for blacks. At least they had gone from being ignored to being three-fifths human. If they could hold out for another seventy years, they would be free! In turn, the

southern states agreed to allow a maximum of three new future states that would ban slavery.

One of the last of the central debates regarded the executive and the role of the president. The delegates were men who feared too much power in the hands of a single man—they had just fought a long war to do away with one monarch. The Virginia Plan called for a chief executive to be elected by Congress. Virginia's George Mason proposed three presidents. Elbridge Gerry, a leading opponent of the strong federal government, wanted the president elected by the state governors. Alexander Hamilton, a proponent of a strong federal government, wanted the president to serve for life. Another proposal was to bar anyone from the presidency who was not worth at least $100,000. (the equivalent of a multimillionaire). The solution came from New York's Gouverneur Morris, who at the time was living in the same house as George Washington. Morris proposed an executive elected by the people. Morris also proposed that he be commander-in-chief of the armed forces as well. As Thomas Fleming points out in *Liberty*, "One suspects that when Gouverneur Morris spoke, they were hearing advice from George Washington. Also, as Pierce Butler of South Carolina pointed out, there sat Washington, the man who was certain to be the first President. There was no need to fear that he would become a tyrant."

And in the ultimate exercise of compromise, the men who put the Constitution together recognized that it might have to be changed, so they built in an acceptable form of amending their work. Change would not be easy, but it was possible.

As is true of other moments in American history, cynicism born of perfect hindsight is easy. On the other hand, credit should be given where it is due. The Framers were intelligent, even brilliant men; they knew their history and their law. The Constitution they forged was then the pinnacle of thousands of years of political development. They were familiar with, and could draw on, such sources and models as the Greek philosophers, the Roman republic, and the evolution of the English democratic tradition running from the Magna Carta through Parliament and the English Bill of Rights of 1689. Above all, in the Constitution—and earlier, in the Declaration—they embodied the triumph of the Enlightenment, that glorious flowering of ideas in the seventeenth and eighteenth centuries that elevated the powers of human

reason and strove for new forms of government, free of tyranny. The philosophies they were striving to fulfill had been expressed by such giants of the age as Hume, Locke, Rousseau, Voltaire, and Kant. They were all familiar to the Framers, and these ideas contributed to the heady debate, a debate that centered on the ongoing struggle between liberty and democracy, two ideas that often clash.

As for debate, there was plenty. Even with the broad outlines agreed upon, major differences cropped up at every turn. It took nearly six hundred separate votes to settle them all. These were not small matters of detail, either, but large questions that might have altered the course of the nation. For instance, New York's Alexander Hamilton, one of the staunchest advocates of powerful central government and the chief representative of northern commercial interests—he was one of the founders of the Bank of New York—wanted the president and the Senate appointed for life. He also argued for giving the "first class," the wealthy men of America, among whom he could certainly be counted, "a distinct permanent share of the government."

Hamilton's suggestion was turned down, but the Constitution did not provide for direct elections, except for the House of Representatives, where it was still left to the states to determine who voted. Property ownership was the key qualification in almost every state. And of course, women, Indians, and blacks—free or slave—had no vote. It is simple to dismiss even that basic decision as the result of sexism and racism. But, again, the temper of the times must be considered. In a period in which class differences were so clearly delineated, though less so in America than in Europe, it may have been inconceivable for these men to consider allowing just anyone to vote. They took as an article of faith that to participate responsibly in a democracy required education and the measure of property that would allow one the leisure to read and think. That said, however, they also did everything they could to make sure that women, Indians, blacks, and the white poor would be excluded from obtaining such education and property.

The final form of the Constitution, prepared by New York's Gouverneur Morris, was put to a vote on September 17, 1787. Thirty-nine of the delegates present voted in favor; three were opposed. Another thirteen of the principals were absent, but seven of these were believed to favor the Constitution. It was sent on to Congress, which decided to

submit the document to the states for ratification, with the approval of nine states needed for passage.

AMERICAN VOICES
Preamble to the Constitution of
the United States of America:

We the People of the United States, in Order to form a more perfect union, establish Justice, insure domestic Tranquility, provide for the common defence, promote the general Welfare, and secure the Blessings of Liberty to ourselves and our Posterity, do ordain and establish this CONSTITUTION for the United States of America.

For any and all of the Constitution's flaws—as well as those of the men who wrote it—this document was, and remains, a remarkable achievement. As Leonard W. Levy argues in *Original Intent and the Framers' Constitution*, "The Constitution lacks the eloquence and passion of the Declaration of Independence, although the opening of the Preamble, 'We the People,' summons forth the still radically democratic idea that the government of the United States exists to serve the people, not the people to serve the government. That is fundamental to the Framers' original intent, as is the related idea that government in the United States cannot tell us what to think or believe about politics, religion, art, science, literature or anything else; American citizens have the duty as well as the right to keep the government from falling into error, not the other way around."

What are checks and balances?

This has nothing to do with monthly bank statements. Whether out of wisdom or fear, the Constitution's architects created a fundamental principle underlying the strength and tension of the federal government. The fear was obvious; no one wanted anyone else to become too powerful. So for almost every power they granted to one branch of government, they created an equal power of control for the other two. The

legislature could "check" the power of the president, the Supreme Court could "check" the power of Congress, and so on, maintaining a careful symmetry, or "balance," among the three branches.

BASIC POWERS AND CHECKS

EXECUTIVE POWERS (PRESIDENT)

- Approves or vetoes federal bills.
- Carries out federal laws.
- Appoints judges and other high officials.
- Makes foreign treaties.
- Can grant pardons and reprieves to federal offenders.
- Acts as commander-in-chief of armed forces.

CHECKS ON EXECUTIVE POWERS

- Congress can override vetoes by two-thirds vote.
- Senate can refuse to confirm appointments or ratify treaties.
- Congress can impeach and remove the president.
- Congress can declare war.
- Supreme Court can declare executive acts unconstitutional.

LEGISLATIVE POWERS (CONGRESS)

- Passes federal laws.
- Establishes lower federal courts and the number of federal judges.
- Can override the president's veto with two-thirds vote.

CHECKS ON LEGISLATIVE POWERS

- Presidential veto of federal bills.
- Supreme Court can rule laws unconstitutional.
- Both houses of Congress must vote to pass laws, checking power within the legislature.

JUDICIAL POWERS

- Interprets and applies the law by trying federal cases.
- Can declare laws passed by Congress and executive actions unconstitutional.

CHECKS ON JUDICIAL POWERS

- Congress can propose constitutional amendments to overturn judicial decisions. (These require two-thirds majority in both houses, and ratification by three-quarters of states.)
- Congress can impeach and remove federal judges.
- The president appoints judges (who must be confirmed by the Senate).

What three-letter word is not in the Constitution?

There is an American political drama that has been played out in recent years during the Democratic convention. Someone, usually a conservative Republican with ties to the Christian right, blasts away at the Democratic Party's platform because it doesn't mention God. Then, if all goes according to form, a Democratic Party spokesperson will fire back that the United States Constitution doesn't mention God, either. In this case, the Democrats have it right.

Unlike the Declaration of Independence, which tiptoed around the question of a deity with euphemisms like "Nature's God," "Creator," "Supreme Judge of the World," and "Divine Providence," the Constitution makes no such nods to divine intervention. Instead, the Constitution calls the nation the creation of the will of the people. In a country in which the role of religion is constantly debated and politicians routinely point to America's "Judeo-Christian heritage" and "the faith of our fathers," the question of the missing deity in the Constitution raises a larger point: What did the Founding Fathers believe? Few questions have generated as many myths or misconceptions.

In fact, eighteenth-century America was predominantly Christian—and overwhelmingly Protestant. But that was a big tent, covering a

(next 5 pages are skipped)

AMERICAN VOICES

"A Bill for Establishing Religious Freedom," enacted by the Virginia General Assembly in 1786:

> **We the General Assembly of Virginia do enact that no man shall be compelled to frequent or support any religious worship, place or ministry whatsoever, nor shall be enforced, restrained, molested, or burthened in his body or goods, nor shall otherwise suffer, on account of his religious opinions or belief; but that all men shall be free to profess, and by argument to maintain, their opinions in matters of religion, and that the same shall in no wise diminish, enlarge, or affect their civil capacities.**

Jefferson introduced this bill in 1779, and passage was secured while he was in Paris with the collaboration of James Madison. Along with his authorship of the Declaration of Independence and his establishment of the University of Virginia, Jefferson had his authorship of this bill included on his tombstone.

What does *e pluribus unum* mean?

E pluribus unum is the Latin motto on the face of the Great Seal of the United States and the phrase means "out of many, one." It can be traced back to Horace's Epistles. It refers to the creation of one nation, the United States, out of thirteen colonies. Benjamin Franklin, John Adams, and Thomas Jefferson, members of the first committee for the selection of the seal, suggested the motto in 1776. Since 1873, the law requires that this motto appear on one side of every United States coin that is minted.

The Great Seal of the United States is the symbol of the sovereignty of the United States, adopted on June 20, 1782. European countries had long used seals, and the new nation signified its equal rank by adopting its own seal. William Barton, a specialist in heraldry, advised the committee responsible for creating the seal, and designed most of the seal's reverse side. Charles Thomson, secretary of the Congress,

prepared the images used on the face, which is used on official documents. The American eagle, with an escutcheon, or shield, on its breast, symbolizes self-reliance. The shield's thirteen vertical stripes came from the flag of 1777, but seven are white, while in the 1777 flag seven are red. The eagle holds an olive branch of thirteen leaves and thirteen olives in its right talon, and thirteen arrows in its left, symbolizing the desire for peace but the ability to wage war. In its beak is a scroll inscribed, *e pluribus unum*. Above its head is the thirteen-star "new constellation" of the 1777 flag, enclosed in golden radiance, breaking through a cloud.

The reverse side of the seal is familiar from the back of the one dollar bill, but it has never been used as a seal. A pyramid of thirteen courses of stone, representing the Union, is watched over by the Eye of Providence enclosed in a traditional triangle. The upper motto, *Annuit coeptis*, means "He [God] has favored our undertakings." The lower motto, *Novus ordo seclorum*, means "the new order of the ages" that began in 1776, the date on the base of the pyramid.

Who were the Federalists, and what were the Federalist Papers?

Two hundred years of miseducation have left an image of the Constitution as a sort of American Ten Commandments, divinely inspired and carved in stone. So it is hard to imagine that its ratification was not assured. Like an unsuccessful organ implant, it was nearly rejected by the body politic. When the Constitution left Philadelphia, the country was almost evenly split between those favoring the strong central government it promised, who came to be known as Federalists, and those for a weaker central government with stronger states' rights, a.k.a. the anti-Federalists.

Loyal Americans and staunch patriots—many of them were Revolutionary leaders and veterans—the anti-Federalists feared a new brand of elected monarchy at the expense of individual liberties. They were led by such major contemporary figures as Virginia's governor, Patrick Henry; Boston's Samuel Adams of Revolution fame; and New York's longtime governor, George Clinton. Their disdain for the Constitution might best be summed up in the words of Thomas Paine: "Govern-

ment, even in its best state, is but a necessary evil." The anti-Federalists believed that men like Alexander Hamilton were trying reintroduce an American form of monarchy.

But no small part of their resistance was personal; many anti-Federalists simply didn't *like* their opposites among the Federalists. No better examples of this could be found than in Virginia, where Patrick Henry kept James Madison, the chief architect of the Constitution, from being elected to the Senate, and New York. where the anti-Federalists were led by New York's governor, George Clinton. Alexander Hamilton and Clinton were philosophical rivals, but their mutual disdain went far beyond policy into personality and rivalries. Clinton and his allies were more or less credited with creating the spoils system—in which patronage jobs were doled out to friends, family, and financial supporters. In 1792, Clinton had stolen the governor's race in New York from Hamilton's handpicked candidate, John Jay, simply by declaring the votes of three counties invalid and declaring himself the winner. (From "The More Things Change, the More They Stay the Same" Department comes this wisdom from William "Boss" Tweed, the notorious nineteenth-century "fixer" of all things political in New York City, who said on Election Day in 1871, "As long as I count the votes, what are you going to do about it?").

Championing the Federalist cause, Hamilton, Madison, and John Jay—then serving as the head of the Confederation's state department—attempted to influence the ratification debate with a series of pseudonymous newspaper letters signed "Publius" and later collected as the Federalist Papers. Eighty-five of these essays were published, and while they are considered among the most significant political documents in American history, after the Declaration of Independence and the Constitution, their direct impact on the debate of the day is dubious. Probably most of the people who counted had already made up their minds.

Of far greater consequence than the papers was the proratification stance of America's two most prominent men, Franklin and Washington, the latter of whom everyone assumed would become the first president under the new Constitution. Of Washington's impact on Virginia's ratification vote, James Monroe wrote to Jefferson, "Be assured his influence carried this government." One by one, the state conventions voting on the question came to ratification—some unanimously;

others, like Massachusetts, by the narrowest of margins. The oldest kind of "smoke-filled room" politicking was often required, and several states agreed only with the proviso that a bill of rights be added to the Constitution. Delaware, a small state happy with the representation it would receive, was first to ratify and was joined in succession by Pennsylvania, New Jersey, Georgia, Connecticut, Massachusetts, Maryland, South Carolina, and New Hampshire, the ninth ratifying state.

But even with the required nine states, there was uncertainty. Virginia and New York had not spoken, and rejection by either or both of these powerful, wealthy states might have rendered the Constitution meaningless. With the Bill of Rights compromise that had worked elsewhere, Virginia voted in favor. In New York, aggressive speechmaking and buttonholing by Alexander Hamilton, combined with John Jay's gentler persuasion, carried the day for ratification.

AMERICAN VOICES

JAMES MADISON, reporting on the signing of the Constitution in September 1787:

> **Whilst the last members were signing, Dr. Franklin looking towards the president's chair, at the back of which a rising sun happened to be painted, observed to a few members near him, that painters had found it difficult to distinguish in their art, a rising from a setting sun. "I have," said he, "often and often, in the course of the session, and the vicissitudes of my hopes and fears as to its issue, looked at that behind the president, without being able to tell whether it was rising or setting; but now, at length, I have the happiness to know that it is a rising, and not a setting sun."**

End Here

Who elected George Washington the first president?

In its wisdom and foresight, not to mention its fear of the rabble, the Framers of the Constitution had created a remarkably curious beast when it came to selecting the president. The Electoral College was the